

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl.Rev.No.485 of 1993

Date of decision : 25.7.2007

Karam Singh

....Petitioner

Versus

The State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

...

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr.Mehardeep Singh, Asstt. Advocate General,
Punjab.

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MAHESH GROVER, J. (O)

This revision is directed against the judgment of the Addl.Sessions Judge, Kapurthala dated 17.7.1993 by which the appeal of the petitioner against the judgment of the trial court dated 7.9.1992 was dismissed and the petitioner was convicted for having violated the provisions of Section 6(2) of the Dowry Prohibition Act, and sentenced to undergo rigorous imprisonment for 6 months and to pay a fine of Rs.5,000/-. In default of payment of fine he was directed to undergo further rigorous imprisonment for a period of 6 months. He was also directed to transfer the dowry articles as referred to in the list Exhibit P.1 and failure of which would require him to pay Rs.50,000/- as costs towards the dowry articles, within a period of 15 days from the date of pronouncement of impugned judgment by

deeming it as fine.

The complainant Smt. Dalbir Kaur, wife of the petitioner filed a complaint against him and his other relations alleging that her marriage with the petitioner had been solemnized in the year 1981 according to Sikh rites and ceremonies and that the accused persons named in the complaint had received dowry articles according to the list which was attached as Exhibit P.1 to the complaint and the price of dowry articles was assessed at more than Rs.1 lakh. It was stipulated in the complaint that the articles so mentioned were handed over to the accused in the presence of relations of the complainant and the respectables of the village, namely Mohinder Singh son of Ujaggar Singh, Man Singh son of Ujaggar Singh, Gurdeep Singh Sarpanch, Sucha Singh Panch, Puran Singh, Sadha Singh and Kewal Singh son of Sardool Singh. Since the accused persons were not happy with the dowry articles given at the time of marriage, they used to maltreat the complainant and were demanding motorcycle, television and fridge etc. Failure to meet the demands resulted in ousting the complainant from her matrimonial home. All the dowry articles were retained by the petitioner and other accused persons. It is further alleged in the complaint that Gurdial Singh, Sucha Singh and brother of the complainant, namely Dalbir Singh went to the house of the petitioner and requested him to rehabilitate the complainant but the petitioner refused and also refused to return the dowry articles. It was further alleged that the petitioner failed to return the dowry articles despite repeated demands resulting in the lodging of the aforesaid complaint on 4.8.1987.

It is also pertinent to notice that the petitioner had filed a divorce petition against the complainant which was dismissed on 28.2.1987.

After recording the pre-charge evidence, the petitioner and other accused persons were summoned to stand trial under Sections 4, 4-B and 6 of the Dowry Prohibition Act read with Section 406 of the Indian Penal Code. They were charged accordingly.

The complainant in order to substantiate her allegations examined three witnesses. The trial Court came to the conclusion that the petitioner was guilty for having violated the provisions of Section 6(2) of the Dowry Prohibition Act and was directed to return the dowry articles or to deposit Rs.50,000/- in lieu thereof. The trial Court convicted the petitioner while acquitted the father-in-law and mother-in-law of the complainant. It is also necessary to point out here that the sisters-in-law of the complainant were absolved at the pre-charge stage itself.

In the present petition learned counsel for the petitioner has contended that the factum of the petitioner having received the dowry articles has not been established at all. He referred to the statements made by the witnesses, namely Kewal Singh and Dalbir Singh, brothers of the complainant. It is further stated that the marriage had been solemnized in the year 1981 and that it is in evidence that the complainant had stayed in the matrimonial home till 1984 and during this interregnum a child was born and that even if some dowry articles were given at the time of marriage, the same were obviously consumed and used by the complainant during her

stay in the matrimonial home. Hence the question of returning the dowry articles did not arise.

The aforesaid contentions of the learned counsel for the petitioner were refuted by the learned counsel appearing for the State, who contended that there was sufficient evidence before the courts below to come to the conclusion that dowry was indeed received by the petitioner and his family members and failure to return the same has clearly violated the provisions of Section 6 of the Dowry Prohibition Act and hence there is no infirmity in the findings recorded by the courts below.

I have heard the learned counsel for the parties and have perused the record.

The statement of the complainant reveals that articles of dowry such as metallic chest, bed, other articles of furniture and some jewellery, total valued at Rs.1 Lakh were given. A perusal of Exhibit P.1 indicates the price of the articles as well and it does not seem to be exaggerated. Kewal Singh PW2 has also deposed that the petitioner and his family members were repeatedly making demands of motorcycle, television and fridge even when the efforts were being made to compromise the matter. The brother of the complainant has also testified to the same effect. There is no evidence worth the name led by the petitioner to refute the allegations against him. It is, therefore, clearly established that the petitioner had received certain articles at the time of marriage. Section 6 of the Dowry Prohibition Act reads as under :

“6. Dowry to be for the benefit of the wife or her

heirs. -- (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman--

(a) if the dowry was received before marriage, within three months after the date of marriage; or

(b) if the dowry was received at the time of or after the marriage, within three months after the date of its receipt; or

(c) if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years,

and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor, or as required by sub-section (3), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.”

It is also clear from the statements of the witnesses that the petitioner had failed to return the dowry articles as required under Section 6 of the Act. The trial Court had rightly disallowed certain articles which were not supported by the requisite bills and, therefore, had come to the conclusion that an amount of Rs.50,000/- in lieu of

dowry articles would suffice.

Learned counsel for the petitioner has not been able to show anything from the record which could persuade this Court to take a different view.

Consequently, I do not find any infirmity in the findings recorded by the courts below.

On a query by this Court, the learned counsel for the petitioner contended that the amount of Rs.50,000/- was not paid by the petitioner as a measure of compliance of the directions given by the courts below.

In view of the fact that the petitioner has not paid the amount in question to the complainant, it is directed that now he shall deposit this amount along with interest @ 9% per annum w.e.f 7.9.1992 i.e. the date of decision of the trial Court till today, within a period of three months from today. In case he deposits this amount along with interest within the aforesaid stipulated period, the sentence shall be reduced to that of already undergone considering the fact that the complaint was filed in the year 1987 and that the dispute has its roots in a marital discord as also the fact that the petitioner would be fairly well advanced in age by now.

With the aforesaid directions, the revision petition stands disposed of.

25.7.2007

(MAHESH GROVER)
JUDGE

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